

SENATE BILL REPORT

ESHB 1503

As Passed Senate, April 5, 2017

Title: An act relating to preventing unfunded mandates involving on-site sewage systems from affecting local governments and property owners.

Brief Description: Preventing unfunded mandates involving on-site sewage systems from affecting local governments and property owners.

Sponsors: House Committee on Environment (originally sponsored by Representatives Short, Taylor, Van Werven, Buys, Haler, Kraft and Hargrove).

Brief History: Passed House: 3/08/17, 91-6.

Committee Activity: Local Government: 3/21/17, 3/28/17 [DP].

Floor Activity:

Passed Senate: 4/05/17, 48-0.

Brief Summary of Bill

- Provides that the Growth Management Act does not preclude counties from certifying homeowners, or their family members or tenants, to inspect their on-site sewage systems.
- Provides that counties are not relieved of the obligation to protect water quality under the Growth Management Act.

SENATE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass.

Signed by Senators Short, Chair; Angel, Vice Chair; Takko, Ranking Minority Member; Palumbo and Sheldon.

Staff: Alex Fairfortune (786-7416)

Background: On-site Sewage Systems. The State Board of Health (BOH) adopts rules addressing the design, construction, installation, operation, and maintenance of on-site sewage systems (OSS), while local health jurisdictions (LHJs) in each county administer and enforce those OSS regulations alongside any additional local requirements.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Owners of an OSS are generally responsible for maintaining the OSS, including associated repair and upkeep costs. Once an OSS has been installed, the system must be inspected at least once every three years if the system has a septic tank and relies on a gravity-powered drain field, or at least once per year for other types of OSS, unless an LHJ requires more frequent inspections.

Growth Management Act (GMA). The GMA is the comprehensive land use planning framework for counties and cities in Washington. Jurisdictions that fully plan under the GMA are required to adopt internally consistent comprehensive land use plans that are implemented through locally adopted development regulations.

Each comprehensive plan adopted by a jurisdiction must include mandatory planning elements. Two of the mandatory elements that must be included contain provisions addressing the protection of water quality are (1) the land use element and (2) the rural element. Specifically, the land use element must provide for the protection of the quality and quantity of groundwater used for public water supplies. The rural element must include measures that protect the rural character of an area by protecting surface and groundwater resources.

A recent state Supreme Court decision found a Whatcom County rural element policy that allowed private homeowners in rural areas to inspect their own septic systems, rather than requiring professional inspections, did not comply with the county's obligations to protect water resources under the GMA.

Summary of Bill: The GMA and state OSS statutes do not preclude counties from authorizing OSS self-inspections by homeowners, their tenants, or their family members upon completion of county certification requirements. The authority of counties to authorize OSS self-inspections does not eliminate the requirement that counties protect water quality consistent with the obligations imposed by the land use and rural elements of the GMA.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill is necessary to retain the flexibility for counties should they choose to allow self-inspections.

Persons Testifying: PRO: Senator Shelly Short.

Persons Signed In To Testify But Not Testifying: No one.